

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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EMPIRE STATE CARPENTERS WELFARE,  
PENSION, ANNUITY, APPRENTICESHIP,  
CHARITABLE TRUST, LABOR  
MANAGEMENT COOPERATION, and  
SCHOLARSHIP FUNDS, and their TRUSTEES  
DALE STUHL MILLER, TODD HELFRICH,  
PATRICK MORIN, DOUG O'CONNER, JOHN  
O'HARE, JOHN DELOLLIS, CHRIS FUSCO,  
ALAN EHL, WILLIAM MACCHIONE,  
WILLIAM BANFIELD, JAMES MALCOLM,  
STANLEY TURTENWALD, ROSS PEPE, ALAN  
SEIDMAN, LLOYD MARTIN, LARRY  
THAYER, WILLIAM WEIR, DAVID HAINES,  
FRANK WIRT, TOM BURKE, JAMES LOGAN,  
FRANK JONES, AARON HILGER, ANGELO  
MASSARO, JAMES HOLLEY,

Plaintiffs,

-against-

M.V.M. CONTRACTING CORP.,

Defendant.

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**Levy Ratner P.C.**

Attorneys for the Plaintiffs  
80 Eighth Avenue, 8th Floor  
New York, NY 10011-5126

By: Owen M. Rumelt, Esq.

**Slevin & Hart, PC**

Attorneys for the Plaintiffs  
1625 Massachusetts Avenue N.W., Suite 450  
Washington, DC 20036

By: Christopher J. Schulte, Esq.

**NO APPEARANCES:**

M.V.M. Contracting Corp.

**ORDER**

10-CV-1801 (ADS)(WDW)

The plaintiffs commenced this case on April 22, 2010 against M.V.M. Contracting Corp. (“M.V.M.”), asserting claims for breach of contract in violation of the Employees Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. (“ERISA”) and the Labor Management Relations Act of 1974, 29 U.S.C. § 141, et seq. (“LMRA”). On September 10, 2010, the Court referred this matter to United States Magistrate William D. Wall, for a report and recommendation as to the amount of damages, attorneys’ fees, and costs to be awarded following the entry of a default judgment against M.V.M. On January 31, 2011, Judge Wall issued a Report recommending that the Court: (1) issue an order directing M.V.M. to permit and cooperate in the audit of its books and records and provide the plaintiffs with information, books, records and reports in accordance with ERISA and the collective bargaining agreement between the parties; (2) award attorney’s fees in the amount of \$617.00; and (3) award costs in the amount of \$427.17. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall’s Report, it is hereby:

**ORDERED**, that Judge Wall’s Report and Recommendation is adopted in its entirety. The Court directs M.V.M. Contracting Corp. within thirty days of the date of this order to permit and cooperate in the audit of its books and records and provide the plaintiffs with information, books, records and reports in accordance with ERISA and the collective bargaining agreement between the

parties. In addition, the Court awards attorneys fees in the amount of \$617.00 and costs in the amount of \$427.17,

**ORDERED**, that the Clerk of the Court shall enter a judgment for the plaintiffs in the total amount of \$1,044.17, and it is further

**ORDERED**, that the Clerk of the Court is directed to close this case.

**SO ORDERED.**

Dated: Central Islip, New York  
March 10, 2011

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge